



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 100—Insurer Conduct
Chapter 7—Market Conduct Analysis

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 100—Insurer Conduct
Chapter 7—Market Conduct Analysis**

20 CSR 100-7.002 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to insurers and other companies transacting business in the state and examiners, analysts, and other staff within the division engaged in market conduct actions, and shall be read together with Chapter 536, RSMo.

(2) Definitions. As used in this chapter, the following terms shall mean:

(A) “Company,” any person as defined by section 374.202.2(1), RSMo;

(B) “Complaint,” a written or documented oral communication, received by the department, primarily expressing a grievance, meaning an expression of dissatisfaction with a specific insurance company or producer;

(C) “Comprehensive market conduct examination,” a full-scope examination that generally involves a review of the company’s operations/management, complaint handling, marketing and sales, advertising materials, licensing, policyholder service, underwriting and rating, tier classifications, nonforfeitures, policy forms and filings, compliance procedures and policies, claim handling, and other state-specific requirements;

(D) “Department,” the Department of Insurance, Financial Institutions and Professional Registration;

(E) “Desk examination,” an examination that is conducted by an examiner at a location other than the company’s premises. A desk examination is usually performed at the department’s offices with the insurer providing requested documents by hard copy, microfiche, discs, or other electronic media, for review;

(F) “Director,” the director of the Department of Insurance, Financial Institutions and Professional Registration;

(G) “Division,” the Division of Insurance Market Regulation;

(H) “Examiner,” any individual having been authorized by the director to conduct a market conduct examination under sections 374.202 to 374.207, RSMo;

(I) “Insurer,” any person as defined by section 374.202.2(5), RSMo;

(J) “Market analysis,” a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports, and other sources in order to develop a baseline understanding of the marketplace and to identify patterns or practices of insurers or companies licensed to do business in this state that deviate significantly from the norm or that may pose a potential risk to insurance consumers;

(K) “Market conduct action,” any of the full range of activities that the director may initiate to assess the market and practices of individual insurers or companies, beginning with market analysis and extending to examinations. The director’s activities to resolve an individual consumer complaint or other reports of a specific instance of misconduct are not market conduct actions for the purposes of this chapter;

(L) “Market conduct examination,” the examination of the insurance operations of an insurer or company licensed to do business in this state in order to evaluate compliance with the applicable laws and regulations of this state. A market conduct examination may be either a comprehensive examination or a targeted examination. A market conduct examination conducted under sections 374.202 to 374.207, RSMo, is separate and distinct from a financial examination of an insurer, but may be conducted at the same time;

(M) “Market conduct surveillance personnel,” those individuals employed or contracted by the director to collect, analyze, review, examine, or act on information on the insurance marketplace, which identifies pattern or practices of insurers and other companies;

(N) “National Association of Insurance Commissioners” or “NAIC,” the organization of insurance regulators from the fifty (50) states, the District of Columbia, and the four (4) United States territories;

(O) “NAIC market conduct uniform examination procedures,” the set of guidelines developed and adopted by the NAIC designed to be used by market conduct surveillance personnel in conducting an examination;

(P) “NAIC Market Regulation Handbook,” a handbook, developed and adopted by the NAIC, or successor product, which—

1. Outlines elements and objectives of market analysis and the process by which states can establish and implement market analysis programs; and

2. Establishes guidelines for market conduct surveillance personnel examination practices;

(Q) “NAIC standard data request,” the set of field names and descriptions developed and adopted by the NAIC for use by market conduct surveillance personnel in an examination;

(R) “On-site examination,” an examination conducted at the company’s home office or the location where the records under review are stored;

(S) “Targeted examination,” a for-cause review of either a specific line of business or specific business practices, including but not limited to underwriting and rating, tier classification, marketing and sales, complaint handling operations or management, advertising materials, licensing, policyholder services, non-forfeitures, claims handling, policy forms and filings, or compliance procedures and policies. A targeted examination may be conducted by desk examination or by an on-site examination; and

(T) “Warrant,” a written order of the director commanding the division to conduct a market conduct examination.

AUTHORITY: sections 374.045 and 374.202–374.207, RSMo 2000 and section 374.185, RSMo Supp. 2007. Original rule filed April 1, 2008, effective Nov. 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 374.185, RSMo 2007; and 374.202–374.207, see Revised Statutes of Missouri.*

20 CSR 100-7.005 Uniform Analysis and Continuum of Actions

PURPOSE: This rule implements the purposes of section 374.185, RSMo, and establishes uniform standards for the division utilizing market analysis to evaluate the market conduct of insurers and to develop cause for issuance of an examination warrant pursuant to sections 374.202 to 374.207, RSMo.

(1) The director is responsible for market regulation of insurers for Missouri policyholder protection and shall utilize market conduct actions, including market analysis, investigations, desk examinations, targeted examinations, and comprehensive examinations of insurers. Such actions shall be pursued by the division in a manner consistent with the purposes of section 374.185, RSMo. In furtherance of such purposes and to provide uniform standards designed to avoid arbitrary or capricious use of discretion in issuing warrants for market conduct examinations, the division shall apply the following standards in utilizing market analysis:



(A) The division shall gather information from data currently available to the division, as well as surveys and required reporting requirements, information collected by the National Association of Insurance Commissioners (NAIC) and a variety of other sources in both the public and private sectors, and information from within and outside the insurance industry from objective sources, information from web sites for insurers, agents, and other organizations, and information from other credible sources;

(B) Such information shall be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review insurers or practices that deviate significantly from the norm or that may pose a potential risk to the insurance consumer;

(C) The NAIC Market Regulation Handbook, and other handbooks adopted by the NAIC, shall be used by the division as a guide in performing this analysis;

(D) The division shall identify key lines of business for systematic review; and

(E) The division shall identify companies for further analysis based on available information.

(2) If the analysis supports further investigation or review by the division into a particular insurer or practice, the following continuum of market conduct actions may be considered prior to requesting a warrant for an examination. These actions may include, but are not limited to the following:

- (A) Correspondence with insurer;
- (B) Insurer interviews;
- (C) Information gathering;
- (D) Policy and procedure reviews;
- (E) Interrogatories; and
- (F) Review of insurer self-evaluation, if not subject to a privilege of confidentiality, and compliance programs, including membership in a best-practice organization.

(3) Any such materials or documents reviewed by the division pursuant to section (2) of this rule shall be treated as confidential in accordance with the provisions of section 374.205.4, RSMo.

(4) The division shall take those steps reasonably necessary to eliminate requests for information that duplicate information provided as part of an insurer's annual financial statement, the annual NAIC market conduct statement, or other required schedules, surveys, or reports regularly submitted to the director, unless the information is state specific.

AUTHORITY: sections 374.045, 374.190, and 374.205, RSMo 2000 and section 374.185, RSMo Supp. 2007. Original rule filed April 1, 2008, effective Nov. 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 374.185, RSMo 2007; 374.190, RSMo 1939, amended 1949, 1967, 1992; and 374.205, RSMo 1992, amended 1997, 1999.*

20 CSR 100-7.010 Standards of Analysis

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Factors Considered. The director shall monitor the market conduct of insurers and producers transacting business in Missouri by using uniform standards of analysis developed in consultation with members of the National Association of Insurance Commissioners (NAIC). Uniform state standards may be adopted by review and adoption of the *Market Analysis Handbook*, the *Market Regulation Handbook*, or other guides adopted by the director.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007, effective July 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*